



Business & Social Science
IJRBS

Research in Business and Social Science

IJRBS Vol 7 No 1, ISSN: 2147-4478

Contents available at www.ssbfn.net.com/ojs

<https://doi.org/10.20525/ijrbs.v7i1.829>

Investigation on Income Tax System of Consolidated Income from House and Land Transactions—In-depth Interview Method

Ching-Yi Hung

M.A., Department of Public Affairs and Civic Education, National Changhua University of Education, Taiwan

Chia-Jen Chang*

Associate Professor, Department of Public Affairs and Civic Education, National Changhua University of Education, Taiwan (Corresponding author)

Abstract

Based on the sayings of “Finance is the mother of civil affairs” and “Tax revenue is the context of national economy”, a healthy tax system based on the alternating utilization of central and local tax systems is essential for achieving the administration by law and tax balance. In light of this, the Ministry of Finance has proposed the improvement project of “Income Tax on the Consolidated Income from House and Land Transactions”. The third reading of “Amendment of Tax Act of Consolidated House and Land Taxation System” was passed by the Legislative Yuan on June 5th, 2015, and it was promulgated on January 1st, 2016. The purpose of this study is to investigate the content of “Income Tax on the Consolidated Income from House and Land Transactions”, including: 1. Is separate taxation a proper move? 2. Is the sunrise term appropriate? 3. Is it necessary to have the “anti-misuse” term? 4. The tax exemption of NT\$ 4 million? 5. The effectiveness of tax revenue after suspension of luxury tax (also known as special sales tax) and the adoption of income tax on consolidate income from house and land? 6. Is it feasible for allocate tax revenue for expenditures of residential policy and long-term care? 7. Is the income tax on consolidated income from house and land in compliance with the principle of proportionality? This study is based on in-depth interview method along with literature review method for data collection and analysis. The results of this study indicate that: a separate taxation system is not appropriate in terms of income redistribution; the opposing party believes that sunrise terms are not appropriate; in theory the anti-misuse term - non-voluntary factors tax rate is not necessary; all interviewees agreed on the tax exemption of NT\$ 4 million ; and the income tax on consolidated income from house and land is not in compliance with the principle of proportionality from the perspective of tax revenue.

Key words : Consolidated income; Real estate; Taxation System; Principle of Proportionality

JEL classification: H20, H26, H30

* Corresponding author, Chia-Jen Chang, Tel.: +886918199600. E-mail address: cjcj1862@gmail.com

Introduction

In order to solve the problems of: (1) As for “House and Land Transactions”, land value increment tax is imposed on land, and income tax is imposed on house. Such separated taxation has led to rather lesser tax; (2) for the land transaction within the same year, there will be neither land value increment tax nor income tax imposed on the land; and (3) real estate enterprises use the house-land price ratio to evade the income tax (Ministry of Finance, 2015), the Ministry of Finance has proposed the improvement plan of “The Income Tax System on the Consolidated Income from House and Land Transactions”, and arrange several “Forums of Establishment of Income Tax System for Real Estate Transactions” to gather opinions for industry, government, and academic sectors. The third reading of “Amendment of Tax Act of Reform of Consolidated House and Land Taxation System” was passed by Legislation Yuan on June 5th, 2015 and promulgated on January 1st, 2016, which started the era of “The System of Income Tax on the Consolidated Income from House and Land Transactions”.

The planning and implementation of consolidated house and land taxation system are for achieving a healthy housing market and implementing residential justice and social balance. However, is the consolidated income of house and land transactions subject to “separated taxation” without being included into the progressive taxation of consolidated income really in compliance with the principle of fair and justified taxation? Will it make the current situation of uneven distribution of wealth in our nation even worse? Is the “Sunrise Term” for simplicity and convenience for all people, or will it start another wave of disputes? What are the basis and standard for the “4 million NTD of exemption”? The “Anti-misuse Term” is for avoid hurting innocent people and self-occupying house buyers, yet is it in compliance with the Article 7 of the Constitution “All citizens of the Republic of China, irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law” and Article 6 of Administrative Procedure Act “No differential treatment is permitted for administrative acts without a good cause”? Can the implementation of consolidated house and land taxation system really achieve the expected purpose of “Rationalization of Real Estate Taxation System”? Will it be deviated from the principle of proportion (Appropriateness, Necessity, Measurability) of administrative behavior demonstrated by Article 7 of Administrative Procedure Act? Can means and purposes complement each other? Are there proper supportive measures? Will it result in other negative impacts? These are all problems to be investigated.

This study is organized as follows. First section is introduction part of this paper which will discuss the principle of tax imposition and existing real estate taxation system in our nation and the Dispute over Income Tax System on the Consolidated Income from House and Land Transactions will be assessed in the next section following a literature review. The next section is the research methodology. It will use the in-depth interview to discuss the Dispute over Income Tax System on the Consolidated Income from House and Land Transactions. Finally, the implications of this study will be assessed before the conclusion part.

Literature review

Principle of tax imposition and existing real estate taxation system in our nation

Principle of tax imposition

“Fairness” and “Efficiency” are the two important principles of tax imposition. For example, in the six principles of V. Justi of German cameralism, it was mentioned that taxation should be fair with definite legal basis, tax payment procedure should be simply and easy, and tax payment time should be properly arranged. The four major principles of A. Smith of British Classical School involved principles of equality, certainty, and convenience. Among the four major principles and nine minor principles of taxation of A. Wagner of German Historical School, it was mentioned that the principle of social equity includes the principles of common and fair taxation; and the taxation technical principles (tax affair administrative principles) should cover the principles of certainty and convenience (Lin, 1984). These can all prove that “Fairness” and “Efficiency” are the two core principles for tax imposition.

The so-called “Fairness” means impartiality. Wang (1992), Yang and Song (2016) pointed out that, as for the body of tax, the principle of fairness should be based on commonality, that it must not differ by region or

identity. "Efficiency" refers to the magnitude of effectiveness. Lin (2000) pointed out that efficiency is to obtain maximum output by minimum input. Tsui et al. (2016) further divided "Fairness" and "Efficiency" into the individual and overall concepts. In the individual concept, fairness is about the pursuit of fairness of personal tax payment; efficiency is about the pursuit of minimized efficiency loss, such as deadweight loss. In the overall concept, fairness is about the pursuit of a satisfying income distribution and tax rate structure; while efficiency is about the pursuit of minimized cost of tax administration, such as tax collection.

Existing real estate taxation system in our nation

The existing real estate taxation system in our nation can be divided into two categories of "Possession Tax" and "Transfer Tax". The possession tax includes "House Tax" and "Land Value Tax"; transfer tax can be further divided into "Transaction Profit (Income) Tax", "Narrow Sense Transfer Tax" and "Others". The Transaction Profit (Income) Tax includes Land Value Increment Tax and Profit-seeking Enterprise Income Tax. The Narrow Sense Transfer Tax includes Stamp Tax, Deed Tax, and Specifically Selected Goods and Services Tax (also known as Luxury Tax, which was suspended on January 1st, 2016). Others include Gift Tax and Estate Tax (Chen, 2015).

The Dispute over Income Tax System on the Consolidated Income from House and Land Transactions

After the efforts from multiple parties, the Income Tax System on the Consolidated Income from House and Land Transactions was eventually determined based on the "Light Tax Version" by Ministry of Finance. This is far from the expectations of various sectors, thus there were many disputes left behind. "Compromise" might be a policy expedient, yet "Fairness" and "Efficiency" are the cores of taxation system. The seven major disputes of the Income Tax System on the Consolidated Income from House and Land Transactions are discussed in the following sections.

1. Dispute over separate taxation

Is the consolidated income of house and land transactions subject to "separated taxation" without being included into the progressive taxation of consolidated income really in compliance with the principle of fair and justified taxation? Will it make the current situation of uneven distribution of wealth in our nation even worse?

Existing regulation in our nation:

According to Article 14-4 and Article 4-4 of Income Tax Act, the existing income tax on the consolidated income from house and land is based on income from house and land – cost – expenses – the balance after the total amount of land price increase according to the Land Tax Act, and the total amount of income tax is not include. It is subject to "Separate Differential Proportion Tax System" in accordance with different possession periods as described in the section below:

Individual living in Republic of China:

Possession period within 1 year: tax rate is 45%; possession period over 1 year and less than 2 years: tax rate is 35%; possession period over 2 years and less than 10 years: tax rate is 20%; possession period over 10 years: tax rate is 15%; those who sell houses, lands, and houses built on own lands in cooperation with profit-seeking business with possession periods within 2 years due to the job transfer, involuntary job departure, or other involuntary factors announced by Ministry of Finance, and those completed construction and sales of the houses and lands within 2 years starting from the date of land possession: tax rate is 20%.

Opinions of domestic scholars:

"Source and Periodicity" concept: during the 2015 Forum of Reform of Real Estate Tax System on the Consolidated Income from House and Land Transactions of Ministry of Finance, Mr. Ze-Min Zhu mentioned that, if the "Capital Gains" are included in the income, the tax will be drastically increased in the year of the sales under the progressive tax system, which is not fair to the seller.

“Increase of net assets or economic power” concept: Huang (2016) pointed out that the separate taxation of income from house and land transactions without being included in the total progressive income tax system would worsen current situations of uneven distribution of income and wealth in our nation with severe violation of tax fairness.

Theoretically:

The income tax system on consolidated income from house and land transaction shall not be subject to separate taxation because it cannot achieve the function of “Income Redistribution”. It can merely represent the Ability-to-Pay Principle of Tax Law. As Wu (2016) pointed out, public policy was just like the medical prescription, which can only be effectively while targeting at the disease. Under the income concept of “Source and Periodicity”, most real estate transactions are in the category of “Non-recurring Income” which is suitable for separate taxation (Su et al., 2015). How can it achieve the function of income redistribution? Will it become just another zero-sum game?

Disputes over sunrise terms

Is the “Sunrise Term” for simplicity and convenience for all people, or will it start another wave of disputes? In 2014 Ministry of Finance organized the first forum for income tax system on consolidated income from house and land transactions, which resulted in 5 conclusions. One of them was “There shall not be any sunrise term”. After that, there was an abrupt change of policy direction, and the “Sunrise Term” was determined.

Existing regulations in our nation:

According to Article 4-4 of Income Tax Act, from January 1, 2016, an individual or a profit-seeking enterprise who has any income derived from transactions of house, the share of land associated with the house or any land which can be issued a construction permit (hereinafter referred to as the “house and land”) which comply with any one of the following conditions, shall be subject to assessment of income tax in accordance with the provisions of Article 14-4 to 14-8 and Article 24-5 of this Act:

The transferred house and land are acquired on or after the following day of January 1, 2014, and have been held for a period of no more than 2 years; the transferred house and land are acquired on or after January 1, 2016; for an individual who acquires the right to use a house by creation of superficies, the transactions of the right shall be regarded as the transactions of the house in the preceding Paragraph.

Opinions of domestic scholars:

Approval: it is believed that the “Two-year Barrier” of sunrise term is a measure to prevent real estate speculation. Tyzz-Jiun Duh indicated that, with the “Sunrise Term” in the draft, only house transactions after January 1st of the next year will be subject to new system, and those who own houses now are not affected (Lee and Shen, 2015).

Disapproval: it is believed that the tax system is too loose, which is just like making an exception. Sun (2015) believed that the “Sunrise Term” of Ministry of Finance was absolutely impractical because it violated the “Principle of Equality of Constitution”.

Theoretically:

“Sunrise Term” is a kind of supporting measure, and an exception of principle. This regulation was also mentioned in Judicial Yuan Interpretation No. 574(Transitional Term). From the tax revenue level, using the unrealized “Principle of Legitimate Expectation” as a shield against Article 143 Paragraph 3 of the Constitution and the spirit of “Public Appreciation” is lacking persuasion.

Disputes over anti-misuse terms

“Anti-misuse Terms” are mainly for avoiding hurting the innocent and involving people who lives in the house they bought. Yet are they in compliance with Article 7 “Right of Equality” of Constitution and Article 6 of Administrative Procedure Act “Principle of Equality of Administrative Behaviors”?

Existing regulations in our nation:

According to Article 14-4 and 14-8 of Income Tax Act, the “Anti-misuse Terms” of existing income tax system on consolidated income from house and land transactions include:

Tax rate of involuntary factor: house and land that have been held for a period of no more than 2 years are transferred because of a job transfer, involuntary separation from employment, or any other involuntary cause announced by the Ministry of Finance, shall be taxed at 20%; tax rate for construction in partnership: An individual who sells house and land where the house is built in partnership with a business entity, and the share of land associated with the unit has been held for a period of no more than 2 years, shall be taxed at 20%

Opinions of domestic scholars:

Approval: Sheng-Her Chang mentioned that, when it comes to the misuse terms of income tax system on consolidated income from house and loan transactions, “the door must be open to some extent” to avoid hurting the innocent (Shen, 2014) .

Disapproval: in general, there are more disputes over the term of applying “Ordinary tax rate” to the purchase/sales of house and land by “Involuntary factors”. Ju-Wei Tseng expressed particular dislike and considered it “A violation of spirit of income tax”. He believed that the passing of such term by Ministry of Finance was due to “Loss of professional judgment”, added “How can you divide money-making conducts into voluntary and involuntary?” (Fu, 2015).

Theoretically:

Ko (2014) mentioned that the legislation of tax incentives without proper cause would lead to “tax privileges”. Regardless of any transaction, investment, or speculation, it is reasonable to do it at your own risk. Therefore, involuntary factor tax rate is not in compliance with “Tax Fairness and Residential Justice”. Chu and Kang (2015) mentioned several unfair perspectives of: “The entry level salary of young people in Taiwan has been frozen for more than a decade, the gap between rich and poor has been increased, prices of houses and lands have been soaring, the class flow has been slowed down, and social antagonism deepens”. Among them, the consequences of “Soaring prices of houses and lands” have led to dominos effect that triggers every sensitive nerve.

Disputes over the exemption of NT\$ 4 million

Existing regulations in our nation:

According to Article 4-5 of Income Tax Act, the house and land provided in the preceding Article which comply with any one of the following conditions with taxable income less than NT\$ 4 million shall be exempt from assessment of income tax. The income exceeds NT\$ 4 million will be subject to income tax based on the minimum rate of 10%:

The individual, his (her) spouse or their minor children have lived in, maintained their household registration at the self-use house, and have owned the house for 6 consecutive years; the house and land have never been used for lease, business operation, or professional practice in the last 6 years before its sale; the individual, his (her) spouse or their minor children have never applied for the provision of this subparagraph in the last 6 years before the sale.

The basis for exemption of NT\$ 4 million:

Ministry of Finance did the calculation based on house and land transaction amount of NT\$ 20 million (transactions with amount less than NT\$ 20 million account for around 91.04% of all transactions) and annual profit of 3%. A self-use house sold after 6 years of possession will lead to a total profit of almost 20%, so most cases of sales of self-use houses will not be affected (Taxation Administration, Ministry of Finance, 2015).

Theoretically:

Based on the perspective of “Any income should be subject to taxation”, there is room for discussion over the rule of exemption of NT\$ 4 million. However, it is doable when it comes to encouraging long-term possession of self-use house. There is only the exemption of NT\$ 4 million for personal sales of self-use house, and it can only be used once every 6 years, thus it can somehow inhibit the real estate speculation.

Gap of tax revenue

In this so-called “Termination of the Era Light Real Estate Tax”, what are the impacts of the suspension of luxury tax (also known as special sales tax) and the adoption of the income tax on actual consolidated income from house and land transactions on tax revenue?

Estimation of tax revenue:

The tax revenue of the first year after the implementation of “Income Tax on Consolidated Income from House and Land Transactions” estimated by Ministry of Finance: The total tax revenue of NT\$ 4.224 billion, with NT\$ 2.924 billion for the individual part, and NT\$ 1.3 billion for the profit-seeking business part (Table 1) (Chen, 2016).

Table 1: Assessment of impact on tax revenue

(Unit: NT\$ 100 million)

Income Tax on Consolidated Income from House and Land Transactions		Year 1	Year 2	Year 5	Year 10
Individual	Acquired by the end of 2015	17.72	17.72	0	0
		11.52	42.30	142.49	241.90
	Acquired by the end of 2016	29.24	60.02	142.49	241.90
	Subtotal				
Profit-seeking business	Acquired by the end of 2015	0.49	0.49	0	0
		12.51	25.03	31.90	36.80
	Acquired by the end of 2016	13.00	25.52	31.90	36.80
	Subtotal				
	Total	42.24	85.54	174.39	278.70

Source: Ministry of Finance (cited from Chen, 2016)

Actual amount of tax revenue:

Taxation Administration, Ministry of Finance¹ announced the tax revenue “in the first half of the year” of income tax on consolidated income from house and land transactions on July 27th, 2016. There is only NT\$ 390 million in the individual part with tax revenue achievement rate of only 13.33%. On February 22nd, 2017, Taxation Administration, Ministry of Finance² again announced the tax revenue “for the entire year” of income tax on consolidated income from house and land transactions. The tax revenue of the individuals is NT\$ 1.24 billion with tax revenue achievement rate of 42.41%.

Opinions of domestic experts and scholars:

¹Taxation Administration, Ministry of Finance, 2016, “The income tax system on consolidated income from house and land transactions has been implemented for more than six months. Please use online application”, 7/27, http://www.dot.gov.tw/dot/home.jsp?mserno=200912140005&serno=200912140018&menudata=DotMenu&contlink=ap/news_view.jsp&dataserno=201607270000.

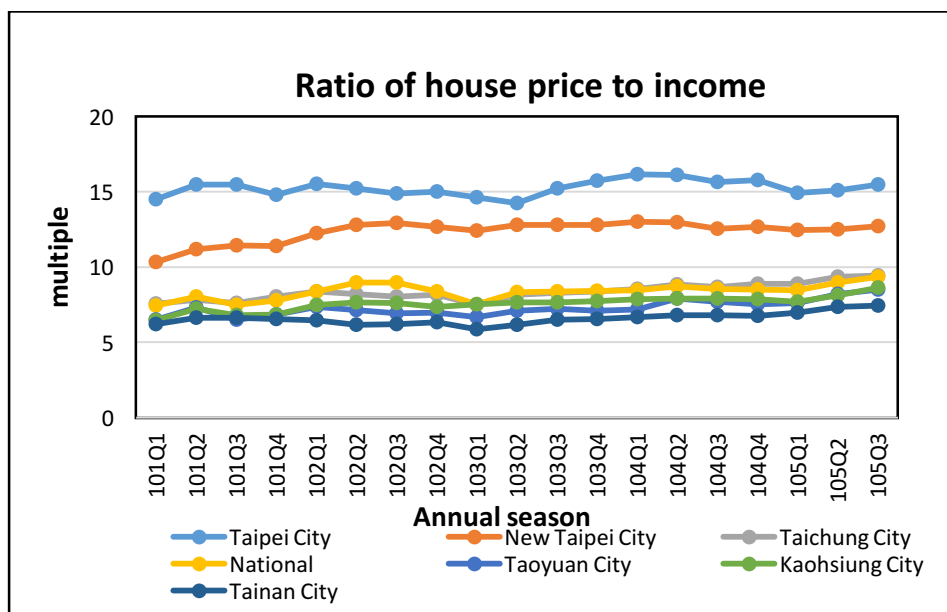
²Taxation Administration, Ministry of Finance, 2017, “The income tax system on consolidated income from house and land transactions has been implemented for 1 year. Please use online application”, 2/22, http://www.dot.gov.tw/dot/home.jsp?mserno=200912140005&serno=200912140018&menudata=DotMenu&contlink=ap/news_view.jsp&dataserno=201702220003.

Deputy Director of Taxation Administration Shio-Zhong Wang pointed out that with variation of economy and the implementation of new taxation system, there were many people trying to complete the transactions by the end of last year to be eligible for the old system, thus creating such gap (Lin, 2016).

Yao-Hwei Huang believed that, the income tax on consolidated income from house and land transactions was set to be a light tax policy. The late introduction of this tax has resulted in the loss of some tax bases. Therefore, if the house prices do not go up, the tax revenue will be less next year (Lin, 2016).

*Ratio of house price to income*³:

It is also known as misery index, which is one of the indexes for evaluating the burden of buying a house. It represents the years of income to afford the total price of a house. The higher the number, the lower the house affordability will be. In general, the ratio of house price to income = total price of house purchase/annual family income. Ratios of house price to income of the entire nation and six municipalities: According to the statistics of "Ratio of house price to income" announced by Real Estate Information Platform, Ministry of the Interior⁴, Taipei City has the highest ratio of house price to income among six municipalities and the entire nation from Q1 2012 to Q3 2016, followed by New Taipei City. After the implementation of income tax system on consolidated income from house and land transactions on January 1st, 2016, the quarterly variations of ratio (multiplication) of house price to income of the entire nation, New Taipei City, Taipei City, Taoyuan City, Taichung City, Tainan City, and Kaohsiung City in "Q1, 2016" are 8.46, 12.43, 14.9, 7.62, 8.87, 6.96, and 7.67; for "Q2, 2016" they are 8.97, 12.51, 15.07, 8.21, 9.34, 7.33, and 8.11; for "Q3, 2016" they are 9.35, 12.70, 15.47, 8.50, 9.42, 7.44, and 8.61 (Figure 1). It reveals that: for 9 months (3 quarters), the ratios of house price to income are not decreased by the implementation of income tax system on consolidated income from house and land transactions. The house prices remain rather high, and the threshold of people's affordability of house price is still quite high.



Source: Real Estate Information Platform, Ministry of the Interior and summary of this study

Figure 1: Ratios of house price to income from Q1, 2012 to Q3, 2016

The dispute over using tax revenue for residential policies and expenditure of long-term care in accordance with budget procedure

³Real Estate Information Platform, Ministry of the Interior, <http://pip.moi.gov.tw/v2/e/scre0105.aspx>.

⁴Real Estate Information Platform, Ministry of the Interior, <https://pip.moi.gov.tw/V2/E/SCRE0201.aspx>.

Existing regulations in our nation:

Article 125-2 of Income Tax Act (Distribution and Utilization of Tax Revenue after Implementation of New Taxation System): The tax revenue from the income tax referred to in Article 14-4 to 14-8 and Article 24-5 of this Act, after deducting the redistribution from the central government to the local governments, shall be used for expenditures of housing policy and long-term social care services, in accordance with budgetary procedures. Regulations for distribution and use of the tax revenue shall be prescribed by the Ministry of Finance in conjunction with the Ministry of Interior, and the Ministry of Health and Welfare.

Opinions of domestic scholars:

Should we adopt “Dedicated funds for special purpose” or “Collective income for collective expenditure” with respect to tax revenue? Ze-Min Zhu pointed out that “The advantage of dedicated funds for special purpose is that it is more acceptable and the disadvantage is that the funds are either insufficient or too much; the collective income for collective expenditure could easily lead to financial illusion with the lack of cost concept, which could result in the increase of public expenditure (Public Economic Policy Research Center, College of Social Sciences, NTU, 2015).

Current situation of tax revenue:

According to the announcement by Taxation Administration, Ministry of Finance, in 2016 the total tax revenue from individuals is NT\$ 1.24 billion with tax revenue achievement rate of 42.41%.

General opinions:

Facing the decrease of tax revenue, how can there be sufficient tax revenue to be allocated for residential policies and long-term care expenditures? Not to mention the use of tax revenue of income tax on consolidated income from house and land transactions for residential policies and long-term care expenditures in accordance with budget procedure.

Is the income tax system on consolidated income from house and land transactions in compliance with the principle of proportionality?

Is the implementation of income tax system on consolidated income from house and land transactions in compliance with Article 7 of Administrative Procedure Act, the principle of proportionality of administrative behavior (the principles of appropriateness, necessity, and measurability)? Can it really achieve the expected “Rationalization of Real Estate Tax System”?

Meaning of the principle of proportionality:

“Principle of Proportionality” refers to that, when people’s rights are limited by national public power, the means of limitation must not exceed the necessary extent. Therefore, this does not only apply to administrative behaviors, but also legislative and judicial behaviors (Zhuang, 2013).

Article 7 of Administrative Procedure Act “Principle of proportionality of administrative” behavior:

Administrative acts shall be performed in pursuance of the following principles: The method adopted must be helpful to the achievement of the objectives thereof; where there are several alternative methods which will lead to the same result in achievement of the objectives, the one with the least harm to the rights and interest of the people shall be adopted; and the harm that may be caused by the method to be adopted shall not be clearly out of balance against the interest of the objectives anticipated to be achieved.

It is in compliance with the “Legitimacy of purpose, necessity of means, and appropriateness of restriction” requested by Article 23 of the Constitution mentioned in the Grand Justice Committee Interpretation No. 476⁵.

⁵Grand Justice Committee Interpretation No. 476, http://www.judicial.gov.tw/constitutionalcourt/p03_01.asp?expno=476.

Existing regulations in our nation:

The implementation of income tax on consolidated income from house and land transactions by Ministry of Finance includes: separate taxation, sunrise term, anti-misuse term, exemption of NT\$ 4 million, impact on tax revenue, and tax revenue allocated for residential policies and long-term care expenditures in accordance with budget procedure. These regulations are important keys to the effectiveness of the implementation of income tax on consolidated income from house and land transactions.

General Assessment

From the perspective of tax revenue: the tax revenue of "individual" in 2016 was only NT\$ 1.24 billion (announced by Taxation Administration, Ministry of Finance), so there is an obvious gap between actual revenue and expected revenue. It is not in compliance with the principle of proportionality, because it violates the regulation of "principle of proportionality" where the method adopted shall contribute to the achievement of purpose (principle of appropriateness), and the means is not in coordination with the purpose. Take the real estate luxury tax for example, which has been suspended now. During more than 4 years of implementation of this tax, it was expected to bring in tax revenue as much as NT\$15.1 billion which could be used for social welfare expenditures for the disadvantages. However, according to the statistics on 104.9.7 on the website of Ministry of Finance, the average annual tax revenue was only NT\$ 4.3 billion (Wu, 2016). Therefore, will the implementation of income tax on consolidated income from house and land transactions lead to just another suspension of luxury tax when it comes to tax revenue?

Subsequent impact: as Ko (2014) pointed out, less tax revenue led to financial difficulty. When a nation cuts its spending, the first ones that suffer will be remote villages and disadvantages.

The "Subsequent Impact" of implementation of income tax on consolidated income from house and land transactions: (1) a trend of realtor closure: more than 300 realtors were closed this year (there were a total of 6,800 realtors by the end of 2015, and there were only 6,498 by September this year) (Wu, 2016). (2) An annual reduction of construction permits issued (January to September) by 20%. According to statistics of Ministry of the Interior, the total construction permits issued and the total floor area from January to September this year are reduced by 20.5% and 20.4% as compared to the same period of last year (Economic Daily, 2016). Along with the increase of house tax in May, 2016 and the rising land value tax in November, they have led to strong objections from all sectors.

Research and Methodology

In this study the preset interviewees are relevant "Experts, Government Officials, and Regular People". Their opinions are as summarized below:

1. Do you think the "Sunrise Term" is appropriate? Why?

(1) Yes: (interviewee A, C, E)

Reason: there must be a buffer or notice period for the promulgation of government laws and regulations such that people can be mentally prepared.

(2) No: (interviewee D, F)

Reason: there shall not be any "Different Treatment" by this "Sunrise Term", all people must be treated equally. If you consider the residential justice or inhibition of house price, there shall not be two different approaches. This sunrise term is nothing but paradox.

(3) Eclectic opinion: (interviewee B)

Reason: I am neither against nor in favor of this sunrise term.

2. Do you think the "Anti-misuse Term" necessary? Why?

(1) Yes:

Anti-misuse terms – involuntary factor tax rate (reason): it is flexible, kind, and compassionate. I think it is rather reasonable. (interviewee A, E)

Anti-misuse terms – tax rate of building based on cooperation with developer (reason): it is reasonable from the perspective of land developer rather than investor. (interviewee B, C)

(2) No:

Anti-misuse terms – involuntary factor tax rate (reason): we don't think this thing is necessary because it is unfair, improper, and probably won't be needed. (interviewee B, C, D, F)

Anti-misuse terms – tax rate of building based on cooperation with developer (reason): is it linked to consortium or stakeholders? It is obvious in the eyes of people in this industry! Under certain circumstances, this is for compensating the resulting grievances from Item 1 (Sunrise Terms)! (interviewee F)

3. What is your opinion on "Exemption of NT\$ 4 million"? Is it necessary? Why?

(1) Yes: (interviewee A, B, C, D, E, F)

Reason: it is reasonable, required, encouraging, and necessary.

4. Is it appropriate for the income tax on consolidated income from house and land transactions to be based on "Separate Taxation" (Tax system based on separate differential ratio) and not included in the total income tax? If so, what are the advantages? If not, why?

(1) Yes: (interviewee A, B, D, E)

Reason: we can pay less tax! If it is included in the total income tax, we will have to pay more.

(2) No: (interviewee F)

Reason: separation taxation is good for generally high income group, and bad for low income group. This is actually a "rich men's term", and the really rich ones don't have to pay this tax because he has the capital to make it "Capital Gains". After holding it for certain years, the taxable income will become less than his personal income.

Question: is it in compliance with "Principle of Tax Fairness and Justice"?

(1) Yes: (interviewee E)

Reason: the tax system is always swinging between "Fairness and Efficiency", and I don't think you have a policy which can completely meet both "Fairness and Efficiency". So it is kind of reasonable for current policy.

(2) No: (interviewee B, D, F)

Reason: nothing is absolutely fair in this world, and there is always a dilemma! And now the government is not trustworthy. If it is for taxing the rich, it should be included in the progressive taxation system.

5. Tax revenue effectiveness? After the suspension of luxury tax (also known as special sales tax) and the adoption of income tax on actual consolidated income from house and land transactions, what do you think of the gap between the value estimated by Ministry of Finance and the actual tax revenue?

(1) Of course: (interviewee A, B, E)

Reason: it is impossible to do "quick in quick out" within 1~2 years. If it is not profitable, naturally the tax revenue will be reduced. If you lose money on the transaction, you don't have to pay any tax.

(2) Wait and See: (interviewee C)

Reason: as for the implementation of new tax system, building developers and individuals are holding the "Wait and See" mentality.

(3) We shall review it: (interviewee D, F)

Reason: for such a huge gap in tax revenue, Ministry of Finance should figure out the problem and take responsibility. All these aforementioned preferential plans make it difficult to tax the rich, and that's the cause

of this huge gap in tax revenue! In principle, from the perspectives of “Capital Gains” and “Investment Environment”, if there is no “house and land transactions”, there will be no tax. The timing of implementation of income tax of consolidated income from house and land transactions is also wrong! That is the reason for over-estimation of tax revenue.

Question: does the implementation of income tax of consolidated income from house and land transactions have any impact on “House price”? Has the “Ratio of house price to income” been reduced?

(1) Rising theory: (interviewee A, B, C, D, F)

Reason: “Ratio of house price to income” will not be reduced! Instead, it will be increased. After the implementation of income tax of consolidated income from house and land transactions, the house price will remain high, just there might be fewer houses available. And it will bring a large space for the taxation term for the rich guys such that the house price will never drop! That is why the “Ratio of house price to income” will not be reduced. You will feel that this policy is a paradox from a rather twisted angle.

(2) Decline theory: (interviewee E)

Reason: There is a 2-year buffer period for house price, and some investors may wait for 2 years. As for the “Ratio of house price to income”, it could be slowly reduced, but it should be a long-term process.

6. It is feasible to allocate “Tax Revenue” for “Residential Policy and Long-term Care Expenditures” in accordance with budget procedure?

(1) Yes under a certain “Condition”: (interviewee A)

Reason: If you can really collect the tax, the motive and concept are both good.

(2) Yes with a certain level of “Doubt”: (interviewee B, C, D)

Reason: we pay this tax and so be it! But does the government really use the taxpayer’s money only on these two items? It can be feasible, but we have no idea about the actual execution! With this reduced amount of tax revenue, government still needs to find enough funds somewhere else! I think the long-term care is just some talking, and it is more “declaration” than “execution” for now.

(3) No: (interviewee F)

Reason: this government is always lying! This means nothing! From the perspective of tax revenue, it is not in compliance with “Statutory Benefit”, and it is not fair. In other words, the rich will never pay for long-term care! You will never get them to pay this tax! A majority of our income tax falls on salary income, and this will be the same case!

Question: do you think the tax revenue should be subject to “dedicated funds for special purpose” or “Collective income for collective expenditure”? Why?

(1) “Dedicated funds for special purpose” under a certain “Condition”: (interviewee A)

Reason: the premise is sufficient “Tax revenue”. People will need “Residential and long-term care policies” in the long run.

(2) “Collective income for collective expenditure”: (interviewee E)

Reason: after all, it is one of income tax. So from the perspectives of a health taxation system and tax revenue, it should be included in the income tax based on “Collective income for collective expenditure”.

(3) Other opinions: (interviewee D, F)

Reason: both options are similar because they both have to go through supervisory authorities. And they could be both difficult to realize. All it takes is one move of “Reserve fund for special use” by our government, and they will both be gone.

7. Can the implementation of income tax of consolidated income from house and land transactions really achieve the expected “Rationalization of real estate taxation system”?

(1) Yes: (interviewee E)

Reason: based on the observation of one year of implementation, I felt that it can achieve the expected target from the perspective of "Income tax".

(2) No: (interviewee A, B, C, D, F)

Reason: this change of tax system is too much, which will affect the house market and reduce the tax revenue, so the expected target cannot be reached. This tax system is not reasonable to begin with, just like skinning a cow many times.

Question: will it be deviated from the regulation of "Principle of Proportionality" of administrative behavior of Article 7 of Administrative Procedure Act?

(1) Positive opinion: (interviewee E)

Reason: it will indeed reduce the burden of those who are not speculating real estate. Under this circumstance, I do believe it is in compliance with the "Principle of Proportionality" of Administrative Procedure Act.

(2) It will be deviated: (interviewee A, B, C, D, F)

Reason: the income tax of consolidated income from house and land transactions is somewhat empty talk. If it fails to achieve the preset target and effectiveness, it fails to achieve the "Principle of Proportionality". And it has been deviated from the appropriateness, necessary, and measurability. Therefore, there is problem within the tax system itself, and "The failure of policy will bring misery to people".

8. Summary

After in-depth interviews, we have collected the opinions of all sectors with respect to issues related to "Income tax of consolidated income from house and land transactions". In addition to the rather consistent opinion on "Exemption of NT\$ 4 million", they have rather different opinions on various issues.

Conclusion

Confucius said, "The mechanic, who wishes to do his work well, must first sharpen his tools." Therefore, only a "Health taxation system" can lead to "Perfect Finance". The taxation system in our nation based on "Expanding tax base, simplifying tax system, and enhancing efficiency" and the tax reform goal of "Social justice, economic development, sustainable environment, and international competitiveness" (Taxation Administration, Ministry of Finance, 2010) are all for this purpose.

The results of this study reveal that, in "Income tax of consolidated income from house and land transactions":

1. Separate taxation is not appropriate when it comes to income redistribution; 2. Those who are against sunrise terms believed that it violated the principle of equality of the Constitution, thus making it inappropriate; 3. Anti-misuse term – involuntary factor tax rate is not theoretically in compliance with taxation fairness; 4. All interviewees agreed on the regulation of exemption of NT\$ 4 million; 5. Income tax of consolidated income from house and land transactions is not in compliance with the principle of proportionality from the perspective of tax revenue, because the means cannot be in coordination with the purpose; and most interviewees believed that it was deviated from the "Principle of Proportionality", and it failed to achieve the purpose of "Rationalization of Real Estate Tax System". This is something worth further thinking and investigation.

References

- Chen, M. T., 2015, *Taxation of the income of real estate transactions by uniting the base and building: law and policy*, (Edited by Shieh, J. S.), Taipei: Angle.
- Chen, Y. S., 2016, *A Study of the Income Tax on the Consolidated Income from House and Land Transactions*, Taipei: Dissertation of On-job Master Program of Department of Economics of College of Social Sciences, NTU.

- Chu, Cyrus C.Y. and Kang, T. Y., 2015, "Social Injustice" during Economic Transformation, *Forecast and Policies of Taiwan Economy*, 45(2): 1-22.
- Huang, S. H., 2016, Myth of Income Tax on Consolidated Income from House and Land Transactions and Separate Taxation, *Accounting Research Monthly*, 351: 73-83.
- Ko, C. K., 2014, *Tax Law Series Column of Tax Reform*, Taipei: Angle.
- Lin, C. C., 2000, *Advanced Capability of Administration Test*, Taipei: Chienhua.
- Lin, C. Y., 1984, *Principle of Finance*, Taipei: San Min Bookstore.
- Su, J. R., Lin, K. C., and Yao, M. H., 2015, *Taxation of the income of real estate transactions by uniting the base and building: law and policy*, (Edited by Shieh, J. S.), Taipei: Angle.
- Tsui, W. C., Ou, J. N., and Shieh, W. C., 2016, *Finance*, Fourth Edition. Taipei: Hwa Tai Publishing.
- Wang, C. S., 1992, *Summary of Tax Law*, Taipei: Whensheng Bookstore.
- Wu, R. M., 2016, Discussion of Decision Making Culture of Public Policies Based on the Legislation Process of Land Related Law – Take Real Estate Appraiser Act and the Reform Bill of Income Tax on Consolidated Income from House and Land Transactions as the Examples, *Land Issues Research Quarterly*, 15(1): 8-17.
- Yang, C. H. and Song, X. L., 2016, *Theory and Application of Tax Law*, Eighth Edition. Taipei: Shinlou Bookstore.
- Zhuang, F. Y., 2013, *Constitution of ROC (1) Summary of Handouts*. (Unpublished)
- Grand Justice Committee Interpretation No. 476,
http://www.judicial.gov.tw/constitutionalcourt/p03_01.asp?expno=476.
- Ministry of Finance, 2015, "Income tax system on consolidated income from house and land transactions (Draft) ", 3/9.
- Public Economic Policy Research Center of College of Social Sciences, NTU, 2015, "Income Tax on Consolidated Income From House and Land Transaction: Record of the Entire Process of Real Estate Tax Reform Forum", <http://perc.ntu.edu.tw/policy-forum/news/property-reform/tax-reform/>.
- Real Estate Information Platform, Ministry of the Interior, <http://pip.moi.gov.tw/v2/e/scre0105.aspx>.
- Real Estate Information Platform, Ministry of the Interior, <https://pip.moi.gov.tw/V2/E/SCRE0201.aspx>.
- Taxation Administration, Ministry of Finance , 2015, "Ten "Whys" you can find online about the Income Tax on Consolidated Income From House and Land Transaction", 6/21,
http://www.dot.gov.tw/dot/home.jsp?mserno=201412250004&serno=201412290004&menudata=DotMenu&contlink=ap/faq_view.jsp&dataserno=201505280000.
- Taxation Administration, Ministry of Finance, 2010, "Tax reform has been showing some initial benefits. Ministry of Finance will continue with the promotion", 1/28,
http://www.dot.gov.tw/dot/home.jsp?mserno=&serno=200912140005&menudata=DotMenu&contlink=ap/news_view.jsp&dataserno=201001280000.
- Taxation Administration, Ministry of Finance, 2016, " The income tax system on consolidated income from house and land transactions has been implemented for more than six months. Please use online application ", 7/27,
http://www.dot.gov.tw/dot/home.jsp?mserno=200912140005&serno=200912140018&menudata=DotMenu&contlink=ap/news_view.jsp&dataserno=201607270000.
- Taxation Administration, Ministry of Finance, 2017, " The income tax system on consolidated income from house and land transactions has been implemented for one year. Please use online application", 2/22,

http://www.dot.gov.tw/dot/home.jsp?mserno=200912140005&serno=200912140018&menudata=DotMenu&contlink=ap/news_view.jsp&dataserno=201702220003.

- Economic Daily News, "Number of construction permits issued from January to September has dropped by 20% as compared to same period last year", UDN, (November 13, 2016), Webpage, <http://udn.com/news/story/7241/2102534>.
- Fu, F. S., "Fine tuning of income tax on consolidated income from house and land transactions, Ju-Wei Tseng: Ministry of Finance failed to carry thing through", newtalk, (June 5, 2015), Webpage <http://newtalk.tw/news/view/2015-06-05/60936>.
- Lee, C. A. and Shen, W. Y., "Inhibiting Real Estate Speculation.....Heavy Tax of 45% to be Imposed for Sales Within 1 Year", UDN, (May 14, 2015) Webpage <https://house.udn.com/house/story/5886/901313>.
- Lin, C. A., "It is Astonishing that Income Tax of Consolidated Income from House and Land Transactions Only Resulted in NT\$ 390 million Tax Revenue", Webpage of Apple Daily (July 28, 2016) <http://www.appledaily.com.tw/appledaily/article/finance/20160728/37325997/>.
- Lin, J. L., "The implementation of income tax of consolidated income from house and land transactions was to late.....investors are gone", Webpages of Economic Daily News and UDN, (July 28, 2016), <http://udn.com/news/story/7243/1857332>.
- Shen, W. Y., "Income Tax on Consolidated Income From House and Land Transaction, Minister of Finance: there must be some room", UDN, (September 15, 2014) ,Webpage https://house.udn.com/mtrag/house/storypage.jsp?f_ART_ID=312244.
- Sun, I. H., "【Letters from Readers】I-Hsin Sun: Three major issues of the income tax on consolidated income from house and land transactions", CommonWealth Magazine, (March 13, 2015), Webpage <http://opinion.cw.com.tw/blog/profile/52/article/2494>.
- Wu, Y. C., "300 Realtors Were Closed This year! Sales Persons Became Jobless", Webpages of Economic Daily News and UDN (November 13, 2016) <http://udn.com/news/story/7241/2102540>